**UNPUBLISHED**

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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**No. 18-4712**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANTHONY SCOTT HUNT,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Florence. R. Bryan Harwell, Chief District Judge. (4:18-cr-00220-RBH-1)

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Submitted: August 8, 2019

Decided: August 14, 2019

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Before WILKINSON, KING, and THACKER, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Casey P. Riddle, Assistant Federal Public Defender, OFFICER OF THE FEDERAL PUBLIC DEFENDER, Florence, South Carolina, for Appellant. Sherri A. Lydon, United States Attorney, Kathleen M. Stoughton, Assistant United States Attorney, Robert Frank Daley, Jr., Assistant United States Attorney, Columbia, South Carolina, Lauren L. Hummel, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Florence, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Anthony Scott Hunt appeals his sentence after pleading guilty to possession of a firearm and ammunition subsequent to a felony conviction in violation of 18 U.S.C. § 922(g)(1) (2012). The district court calculated that his Guidelines range was 57 to 71 months and sentenced him within the range to 60 months in prison and three years of supervised release. On appeal, Hunt contends that the district court erred in calculating his Guidelines range, because his prior conviction in violation of S.C. Code Ann. § 44-53-370 was not a "controlled substance offense" as defined in U.S. Sentencing Guidelines Manual § 4B1.2(b) (2016) for purposes of USSG § 2K2.1(a)(4)(A). We affirm.

"As a general matter, in reviewing any sentence whether inside, just outside, or significantly outside the Guidelines range, we review for an abuse of discretion." *United States v. Bolton*, 858 F.3d 905, 911 (4th Cir. 2017) (internal quotation marks and citations omitted). We first ensure the district court committed no significant procedural error such as improperly calculating the Guidelines range. *Gall v. United States*, 552 U.S. 38, 51 (2007). In evaluating the district court's calculation of the Guidelines range, we review its factual findings for clear error and its legal conclusions de novo. *United States v. Walker*, 922 F.3d 239, 253 (4th Cir. 2019) (citation omitted). We review the legal question of whether a prior conviction qualifies as a controlled substance offense under the Guidelines de novo. *United States v. Furlow*, 928 F.3d 311, 317 (4th Cir. 2019) (citations omitted). When a defendant has not properly preserved an issue by presenting it the district court, we review the appellate contention for plain error only. *Id.* (citation omitted).

Hunt contends that the district court erred by applying the modified categorical approach to find his prior conviction was a controlled substance offense, because the South Carolina statute in question is indivisible, which precludes the use of the modified categorical approach; and it is overbroad, since it covers more conduct than a controlled substance offense under the Guidelines. We conclude that this issue is without merit. *See Furlow*, 928 F.3d at 320-22; *United States v. Marshall*, 747 F. App'x 139, 150 (4th Cir. 2018); *United States v. Rodriguez-Negrete*, 772 F.3d 221, 226-27 (5th Cir. 2014). We further conclude that the district court did not err by considering his sentencing sheet to determine his crime of conviction or in applying the modified categorical approach to find that his prior conviction was a controlled substance offense under the Guidelines. *See Furlow*, 928 F.3d at 322; *United States v. Bethea*, 603 F.3d 254, 259 (4th Cir. 2010).

Accordingly, we affirm the district court's judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

*AFFIRMED*

IN THE

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

---

APPEAL NO. 18-4712

UNITED STATES OF AMERICA,

Appellee,

vs.

ANTHONY SCOTT HUNT

Appellant.

---

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA, FLORENCE DIVISION
THE HONORABLE R. BRYAN HARWELL, PRESIDING JUDGE

---

**APPELLANT'S PETITION FOR REHEARING AND PETITION FOR REHEARING *EN BANC***

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## I. INTRODUCTION

Appellant Anthony Hunt petitions this Court for a rehearing or rehearing *en banc* to reconsider the Court's August 14, 2019 opinion, affirming his sentence from the United States District Court, District of South Carolina. *See* Fed. R. App. P. 35, 40; Local Rules 35 and 40.

## II. STATEMENT OF PURPOSE

A rehearing or *en banc* consideration "is necessary to secure or maintain uniformity of the court's decisions" with the law of the United States Supreme Court and this Court, related to the divisibility of S.C. Code §44-53-370(a)(1). *See* Fed. R. App. P. 35(b)(1); Fed. R. App. P. Local Rule 40(b)(iii). The *Hunt* opinion relied on *United States v. Furlow*, 928 F. 3d 311 (4th Cir. 2019), which failed to properly apply the United States Supreme Court authority set forth in *Mathis v. United States*, 136 S. Ct. 2243 (2016), resulting in a decision that is in conflict with United States Supreme Court precedent. As well, the *Hunt* opinion overlooked a material legal matter raised in briefing regarding *State v. Raffaldt*, 456 S.E.2d 390 (S.C. 1995) and *United States v. Goodwin*, No. 3:17-CR-01143-JMC-1, 2018 WL 6582999, at *5 (D.S.C. Dec. 14, 2018). *See* Local Rule 40(b)(i).

## III. LEGAL AUTHORITY

### A. THE OPINION FAILS TO PROPERLY APPLY SUPREME COURT AUTHORITY AND THE RELEVANT STATE CASE LAW; AND ERRONEOUSLY CONCLUDES THAT S.C. CODE §44-53-370(a)(1) IS DIVISBLE FOR PURPOSES OF APPLYING THE MODIFIED CATEGORICAL APPROACH

In this appeal, Appellant asserts that his prior 2010 South Carolina drug conviction under S.C. Code § 44-53-370(a)(1) is not a controlled substance offense as defined in U.S.S.G. § 4B1.2(b) for purposes of U.S.S.G. § 2K2.1(a)(4)(A) as it encompasses purchasing and is completely indivisible; or, in the alternative is divisible into no more than three separate offenses, none of which, by its elements, constitutes a controlled substance offense, such that the modified categorical approach is inapplicable. In ruling on Appellant's case, the Court held:

> Hunt contends that the district court erred by applying the modified categorical approach to find his prior conviction was a controlled substance offense, because the South Carolina statute in question is indivisible, which precludes the use of the modified categorical approach; and it is overbroad, since it covers more conduct than a controlled substance offense under the Guidelines. We conclude that this issue is without merit. *See Furlow*, 928 F.3d at 320-22; *United States v. Marshall*, 747 F. App'x 139, 150 (4th Cir. 2018); *United States v. Rodriguez-Negrete*, 772 F.3d 221, 226-27 (5th Cir. 2014).
>
> *United States v. Hunt*, No. 18-4712, 2019 WL 3814572, at *1 (4th Cir. Aug. 14, 2019).

Holding that S.C. Code §44-53-370(a)(1) is divisible in such a manner as to apply the modified categorical approach, the *Hunt*

Court cites to the recent panel decision in *Furlow*, which Appellant asserts failed to properly apply United States Supreme Court authority on what indicators are relevant to determine divisibility, and what level of certainty is required. See *Furlow*, 928 F.3d at 319-322. Instead, the *Furlow* Court focused on certain factors to determine divisibility, while ignoring other indicators, contrary to Supreme Court law and its own cases. *Id.* As well, the *Hunt* Court (and the *Furlow* Court), failed to address a material legal matter raised by Appellant therein, namely that the South Carolina Supreme Court in *State v. Raffaldt*, 456 S.E.2d 390 (S.C. 1995) provides direct evidence that under S.C. Code §44-53-370(a)(1) manufacture, distribute, dispense, deliver and purchase are means and not elements. Additionally, the *Hunt* Court failed to address Appellant's arguments, as supported by the District Court opinion in *United States v. Goodwin*, 2018 WL 6582999 (Dec, 14, 2018) and not inconsistent with the authority cited in *Furlow*, that S. C. Code § 44-53-370 (a)(1) is at most only generally divisible into no more than three separate offenses, all of which are overbroad. Therefore, Appellant requests reconsideration by the full Court to ensure conformity with the precedent of the United States Supreme Court and this Court.

When determining whether a prior conviction triggers a Guidelines sentencing enhancement, Courts must approach the issue categorically, looking "only to the fact of conviction and the

statutory definition of the prior offense." *Taylor v. United States*, 495 U.S. 575, 602 (1990). The categorical approach focuses on the *elements* of the prior offense rather than the *conduct* underlying the conviction; a prior conviction constitutes a conviction for the enumerated offense if the elements of the prior offense "correspond[ ] in substance" to the elements of the enumerated offense. *Id.* at 599. "[W]here Congress has not indicated how a prior offense enumerated in a sentencing enhancement statute is to be interpreted, it should be understood to refer to 'the generic, contemporary meaning' of the crime." *United States v. Rangel-Castaneda*, 709 F.3d 373, 376 (4th Cir.2013) (quoting *Taylor*, 495 U.S. at 598). The point of the categorical inquiry is not to determine whether the defendant's conduct *could* support a conviction for a controlled substance offense, but to determine whether the defendant was *in fact convicted* of a crime that qualifies as a controlled substance offense of violence. *See generally, Descamps v. United States*, 570 U.S. 254, 268 (2013).

The inquiry is a bit different, however, in cases involving "divisible" statutes of conviction—statutes that set out elements in the alternative and thus create multiple versions of the crime. *See Descamps*, 570 U.S. 261; *United States v. Gomez*, 690 F.3d 194, 199 (4th Cir. 2012). If a defendant was convicted of violating a divisible statute, reference to the statute alone "does not disclose" whether the conviction was for a qualifying crime.

*Descamps*, 570 U.S. at 261. In such a case, the sentencing court may apply the modified categorical approach and consult certain approved "extra-statutory materials ... to determine which statutory phrase was the basis for the conviction." *Id.* at 263 (internal quotation marks omitted).

As the Supreme Court emphasized, however, the modified categorical approach, "serves a limited function: It helps effectuate the categorical analysis when a divisible statute, listing potential offense elements in the alternative, renders opaque which element played a part in the defendant's conviction." *Descamps*, 570 U.S. 260. Where the statute defines the offense broadly rather than alternatively, the statute is not divisible, and the modified categorical approach simply "has no role to play." *Id.* at 264.

Appellant asserted, in reliance on the analysis in *Goodwin*, that based on the statutory text and the relevant state case law, S. C. Code that § 44-53-370(a)(1) is at most only *generally* divisible. General divisibility, however, is not enough; a statute is divisible for purposes of applying the modified categorical approach only if at least one of the categories into which the statute may be divided constitutes, by its elements, a controlled substance offense. *See Descamps*, 570 U.S. at 263-264 (explaining that the modified categorical approach provides a "mechanism" for comparing the prior conviction to the generic offense "when a

statute lists multiple, alternative elements, and so effectively creates several different crimes.... [and] *at least one, but not all of those crimes matches the generic version* " (emphasis added)); *Gomez*, 690 F.3d at 199 ("[C]ourts may apply the modified categorical approach to a statute only if it contains divisible categories of proscribed conduct, at least one of which constitutes—by its elements—a [qualifying conviction]."). In this case, the categories of conduct set forth in §44-53-370(a)(1) do not line up with the elements of a controlled substance offense as defined by the Guidelines as each of the three offenses includes purchasing as a means of commission.

Pursuant to United States Supreme Court authority, under the categorical approach, courts initially look "only to the fact of conviction and the statutory definition of the prior offense." *Taylor*, 495 U.S. at 602. If alternatives are listed, the statute might answer the divisibility question by identifying what elements must be charged or whether the alternatives carry different punishments. *Mathis v. United States*, 136 S. Ct. 2243, 2256 (2016). State court decisions may also be considered. *Id.*

While the Court in *Furlow* indicated that it found nothing in the text of S. C. Code § 44-53-375(B) to clearly suggest that the various specified actions are means rather than elements, Appellant Hunt identified two separate textual indicators consistent with the directives of *Mathis* that establish that S.C.

Code § 44-53-370(a)(1) is at most generally divisible into no more than three offenses. This general divisibility into no more than three offenses is supported first off by the text of the statute itself, with its repetition of the terms "manufacture, distribute, dispense, deliver [and] purchase" which are then modified with different phrases. See S.C. Code §44-53-370(a)(1). The second repetition of these terms is modified by the words "aid, abet, attempt, or conspire to." *See id.* The third repetition of the terms is modified by the phrase "possess with intent to." *Id.* "[A]id, abet, attempt, or conspire to" and "possess with intent to" clearly are modifications because if they are not read in conjunction with the terms "manufacture, distribute, dispense, deliver, [and] purchase," parts of the statute would be nonsensical. For example, if "aid" stood alone, the statute would make it unlawful to "aid ... a controlled substance or a controlled substance analog." *Id.* The same would be true if "aid, abet, attempt, or conspire to" are read together, but not as modifiers; in that case, the statute would make it unlawful to "aid, abet, attempt, or conspire to ... a controlled substance or a controlled substance analog." *Id.* As these readings of the statute make no sense, "aid, abet, attempt, or conspire to" and "possess with intent to" must modify the terms "manufacture, distribute, dispense, deliver, [and] purchase." *See Lancaster Cty. Bar Ass'n v. S.C. Comm'n on Indigent Def.*, 670 S.E.2d 371, 373 (S.C. 2008) ("In construing a statute, this [c]ourt

will reject an interpretation when such an interpretation leads to an absurd result that could not have been intended by the legislature."). These structural features strongly suggest that manufacturing, distributing, dispensing, delivering, or purchasing a controlled substance is distinct from aiding, abetting, attempting or conspiring to manufacture, distribute, dispense, deliver, or purchase a controlled substance, which is distinct again from possession with intent to manufacture, distribute, dispense, deliver, or purchase a controlled substance. *See United States v. Goodwin*, No. 3:17-CR-01143-JMC-1, 2018 WL 6582999, at *5 (D.S.C. Dec. 14, 2018).

The second textual indictor recognized in *Mathis* and not considered by the panel is related to the potential punishments for the maximum three different alternatives. As to conspiracy under section 44-53-370(a)(1), in *Harden v. State*, the South Carolina Supreme Court explained, "Conspiracy is a separate offense from the substantive offense, which is the object of the conspiracy. A defendant may be separately indicted and convicted of both the conspiracy, and the substantive offenses committed in the course of the conspiracy." 602 S.E.2d 48, 50 (S.C. 2004). Conspiracy under section 44-53-370(a)(1) also carries a different punishment than the other two crimes. At the time of Defendant's conviction, section 44-53-420 of the South Carolina Code Ann. (2002) provided that:

> (A) Except as provided in subsection (B), a person who attempts or conspires to commit an offense made unlawful by the provisions of this article, upon conviction, be fined or imprisoned in the same manner as for the offense planned or attempted; but the fine or imprisonment shall not exceed one half of the punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.
>
> (B) A person who attempts to possess a substance made unlawful by the provisions of this article is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.
>
> S.C. Code Ann. § 44-53-420; *See also State v. Fowler*, 289 S.E.2d 412, 413 (S.C. 1982)("[Under S.C. Code Ann. § 44-53-420,] [t]he maximum sentence for conspiracy to commit a drug offense is one-half of the maximum punishment for the offense which was the object of the conspiracy.").

In contrast, within each of the three statutory alternatives, the statutory means listed in section 44-53-370(a)(1) do not carry different punishments. The statute does not provide a variance in sentence based upon whether a person manufactures, distributes, dispenses, delivers, or purchases a controlled substance. *See* S.C. Code Ann. § 44-53-370(a)(1) (2002). What affects a person's sentence under section 44-53-370(a)(1) is the *type* of drugs. *See Carter v. State*, 495 S.E.2d 773, 777 (S.C. 1998)("Section 44-53-375 provides a violation of § 44-53-370 that involves methamphetamine (crank) carries a greater sentence than the sentence provided for in § 44-53-370 for other Schedule II drugs. Therefore, § 44-53-375 does not define a separate crime but only

an enhanced punishment."); See also S. C. Code Ann. § 44-53-370(b)(1), (b)(2), (b)(3) and (b)(4).

In applying *Mathis* to another South Carolina statute, this Court held: "the ABWO statute does not provide for any alternative punishments that depend on whether the defendant had either assaulted, beaten, or wounded the officer. We are therefore satisfied to apply the categorical approach to the ABWO offense." *United States v. Jones,* 914 F.3d 893, 900-01 (4th Cir. 2019) (citing *Mathis* 136 S. Ct. at 2256); *see United States v. Edwards,* 836 F.3d 831, 837 (7th Cir. 2016) ("Reinforcing that conclusion [that the statute is not divisible] is the fact that those alternatives carry the same punishment."); *United States v. Mapuatuli,* 762 F. App'x 419, 422 (9th Cir. 2019) (holding Cal. Health & Safety Code § 11366.5(a), which prohibits maintaining property "for the purpose of unlawfully manufacturing, storing, or distributing any controlled substance for sale or distribution", was not divisible because it provided a single punishment for violating any one of these alternatives).

Yet, despite guidance from *Mathis*, which was properly applied by this Court in *Jones*, and without consideration of *Raffaldt*, as discussed, *infra*, the *Furlow* Court failed to follow Supreme Court authority in concluding that:

> Insofar as section 44-53-375(B) prescribes the same penalty for each alternative action, that attribute does not outweigh the state court decisions treating those

> actions as separate offenses with different elements. *See Mathis*, 136 S. Ct. at 2256 (explaining that sentencing court need not look beyond state court decision "definitively answer[ing]" question of divisibility).

*Furlow*, 2019 WL 2621773 at *8.

The *Hunt* Court, in reliance on *Furlow*, did not follow the dictates of *Mathis* nor this Court's analysis in its recent published decision in *Jones*, as it failed to consider that section 44-53-370 defines no more than three different crimes: (1) the "manufacture, distribute, dispense, deliver, [and] purchase ... [of a] controlled substance or a controlled substance analogue"; (2) "aid[ing], abet[ting], attempt[ing], or conspire[ing] to manufacture, distribute, dispense, deliver, or purchase ... a controlled substance or a controlled substance analogue"; and (3) "possess[ion] with the intent to manufacture, distribute, dispense, deliver, or purchase a controlled substance or a controlled substance analogue;" which carry different punishments. This is in contrast to the fact that regardless of the means employed to commit any one of these three drugs offenses, an offender is subject to the same punishment regardless of whether he manufacture[s], distribute[s], dispense[s], deliver[s], or purchase[s] a controlled substance. *See Mathis*, 136 S. Ct. at 2256 ("If statutory alternatives carry different punishments, then under *Apprendi* they must be elements."); see also, *Jones*, 914 F.3d at 900-01 (4th Cir. 2019) (quoting *Mathis* 136 S. Ct. at 2256)

(since South Carolina statute did not provide for any alternative punishments, it supported the Court's conclusion the statute was not divisible).

As well, it is critical that neither the *Hunt* Court, nor the *Furlow* Court considered or addressed the most direct evidence from the South Carolina courts that under S.C. Code § 44-53-370 manufacture, distribute, dispense, deliver, and purchase are means and not elements. The South Carolina Supreme Court in *State v. Raffaldt*, 456 S.E.2d 390, 394 (S.C. 1995) provided clear and conclusive guidance on this issue. In describing the jury instructions requested by Appellant Raffaldt at trial, the South Carolina Supreme Court observed that, "[t]he charges requested by Raffaldt relate to *the various ways to commit distribution and possession.*" *Raffaldt*, 456 S.E.2d at 394 (emphasis added) (citing S.C. Code Ann. § 44-53-370(a) and (d)(3) (1985 and Supp. 1993) ). This is reiterated by the South Carolina Supreme Court in *Harden*, where it is noted that "[t]rafficking may be accomplished by several means, including conspiracy." *Harden v. State*, 602 S.E.2d 48, 50 (S.C. 2004). Thus, pursuant to *Raffaldt* and *Harden*, section 44-53-370(a)(1) necessarily defines different *ways* or *means*, as opposed to elements. *Id.* The failure to address *Raffaldt* is a material legal matter overlooked by the Court.

Furthermore, the Hunt Court's reliance on *Furlow*, without consideration of the *Goodwin* analysis relied upon by Hunt is an

essential material legal matter overlooked by the Court. None of the cases cited in *Furlow* establish that manufactur[ing], distribut[ing], dispens[ing], deliver[ing] or purchasing constitute separate crimes. On the contrary, all of the South Carolina cases cited in *Furlow*, are consistent with the proposition that the South Carolina drug statute may be properly divided into no more than three offenses,[1] which include: (1) the "manufacture, distribute, dispense, deliver, [and] purchase . . . [of a] controlled substance or a controlled substance analogue"; (2) "aid[ing], abet[ting], attempt[ing], or conspir[ing] to manufacture, distribute, dispense, deliver, or purchase . . . a controlled substance or a controlled substance analogue"; and (3) "possess[ion] with the intent to manufacture, distribute, dispense, deliver, or purchase a controlled substance or a controlled substance analogue." See *United States v. Goodwin*, No. 3:17-CR-01143-JMC-1, 2018 WL 6582999, at *5 (D.S.C. Dec. 14, 2018).

Finally, in addition to *Furlow*, the *Hunt* Court relies on this Court's unpublished decision in *United States v. Marshall*, No. 16-

[1] Again, Appellant continues to assert that section 44-53-370(a)(1) is completely indivisible as it sets out a single crime, a drug violation, that can be committed a number of different ways, one of which prohibits the mere purchasing of a controlled substance, which makes it overbroad such that it does not qualify as a controlled substance offense under U.S.S.G. § 4b1.2(b). However, in the alternative, Appellant argues the statute is divisible into no more than three discrete offenses none of which qualify as controlled substance offenses.

4594, 2018 WL 4150855 (4th Cir. Aug. 29, 2018) and in turn the Fifth Circuit's decision in *United States v. Rodriguez-Negrete*, 772 F.3d 221 (5th Cir. 2014) in concluding that S.C. Code Ann. § 44-53-370(a)(1) is completely divisible. The Fourth Circuit in *Marshall* "consider[ed] how South Carolina prosecutors charge the offenses, the elements on which South Carolina juries are instructed, and the manner in which South Carolina courts treat convictions under these statutes." *Id.* However, this is a departure from *Mathis* as discussed, *supra*. Additionally, the *Marshall* Court does not address *Raffaldt*. As well, the Fifth Circuit's decision in *Rodriguez-Negrete*, in addition to not being binding on this court, does not directly answer the means/elements questions and was also decided before *Mathis*. *See Rodriguez-Negrete*, 772 F.3d at 227 ("Because the statute of Rodriguez's conviction criminalizes drug distribution offenses as well as the mere purchase of drugs—the latter not necessarily a drug trafficking offense—the statute alone would not be sufficient and determinative to support Rodriguez's sentence. Under the modified categorical approach, we may determine the offense of Rodriguez's conviction by consulting a limited class of documents approved by the Supreme Court in *Shepard v. United States.*").

The United States Supreme Court has provided much direction on what indicators are relevant to determine divisibility, and what level of certainty is required. The *Hunt* Court reaches a

conclusion contrary to that authority based on its reliance on *Furlow*, which failed to properly apply the United States Supreme Court authority set forth in *Mathis*. As well, the *Hunt* Court overlooked material legal matters raised in briefing regarding *State v. Raffaldt*, 456 S.E.2d 390 (S.C. 1995) and *United States v. Goodwin*, No. 3:17-CR-01143-JMC-1, 2018 WL 6582999, at *5 (D.S.C. Dec. 14, 2018). For these reasons, Appellant Hunt requests that this Court grant his request for rehearing or rehearing *en banc* to address these inconsistencies on this matter of great importance.

## III. CONCLUSION

Appellant Hunt respectfully requests that the request for rehearing, or rehearing *en banc* be granted in order to ensure uniformity with United States Supreme Court precedent and this Court's own decisions; and to address important matters of law raised in briefing.

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**Appeal No.: 18-4712**

Florence, South Carolina
August 28, 2019

**UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT**

NO. **18-4712** CAPTION: **UNITED STATES VS. ANTHONY SCOTT HUNT**

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**Appeal No.: 18-4712**

Florence, South Carolina
August 28, 2019

**CERTIFICATE OF SERVICE**

I, **CASEY P. RIDDLE**, Assistant Federal Public Defender, certified that I have this date electronically filed the Appellant's Petition for Rehearing and Petition For Rehearing *En Banc* with the Fourth Circuit Court of Appeals using the CM/ECF System, which will send notice of such filing to the following registered CM/ECF user(s):

**MS. LAUREN L. HUMMEL**
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I further certify that I have mailed the **Brief for Appellant** by First-Class, postage-prepaid, to the following non-CM/ECF participant(s), addressed as follows:

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Florence, South Carolina
August 28, 2019

FILED: September 10, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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No. 18-4712
(4:18-cr-00220-RBH-1)

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UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

ANTHONY SCOTT HUNT

Defendant - Appellant

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ORDER

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The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Wilkinson, Judge King, and Judge Thacker.

For the Court

/s/ Patricia S. Connor, Clerk